

State of Arizona  
Senate  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 224

**SENATE BILL 1344**

AN ACT

AMENDING SECTION 11-830, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 27, CHAPTER 3, ARTICLE 6, ARIZONA REVISED STATUTES, TO "AGGREGATE MINING OPERATIONS"; SECTION 27-441, ARIZONA REVISED STATUTES, IS RENUMBERED AS SECTION 27-448; AMENDING TITLE 27, CHAPTER 3, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 27-441 AND SECTIONS 27-442 THROUGH 27-447; AMENDING SECTION 48-3609.01, ARIZONA REVISED STATUTES; RELATING TO MINING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-830, Arizona Revised Statutes, is amended to  
3 read:

4 11-830. Restriction on regulation; exceptions; aggregate mining  
5 regulation; definitions

6 A. Nothing contained in any ordinance authorized by this chapter  
7 shall:

8 1. Affect existing uses of property or the right to its continued use  
9 or the reasonable repair or alteration thereof for the purpose for which used  
10 at the time the ordinance affecting the property takes effect.

11 2. Prevent, restrict or otherwise regulate the use or occupation of  
12 land or improvements for railroad, mining, metallurgical, grazing or general  
13 agricultural purposes, if the tract concerned is five or more contiguous  
14 commercial acres. FOR THE PURPOSES OF THIS PARAGRAPH, "MINING" HAS THE SAME  
15 MEANING PRESCRIBED IN SECTION 27-301.

16 3. Prevent, restrict or otherwise regulate the use or occupation of  
17 land or improvements for agricultural composting, if the tract is five or  
18 more contiguous commercial acres. An agricultural composting operation shall  
19 notify in writing the board of supervisors and the nearest fire department  
20 of the location of the composting operation. If the nearest fire department  
21 is located in a city, town or fire district where the agricultural composting  
22 is not located, the agricultural composting operation shall also notify in  
23 writing the fire district in which the operation is located. Agricultural  
24 composting is subject to the provisions of sections 3-112 and 49-141. For  
25 THE purposes of this paragraph:

26 (a) "agricultural composting" has the same meaning prescribed in  
27 section 9-462.01, subsection G.

28 (b) ~~"Farmland" has the same meaning prescribed in section 3-111 and~~  
29 ~~is subject to regulation under section 49-247.~~

30 B. A nonconforming business use within a district may expand if such  
31 expansion does not exceed one hundred per cent of the area of the original  
32 business.

33 C. For the purposes of subsection A, paragraph 2 of this section,  
34 mining does not include sand and gravel AGGREGATE MINING operations in  
35 counties which have adopted a specific sand and gravel AN AGGREGATE MINING  
36 operations zoning district ESTABLISHED pursuant to this section. THE BOARD  
37 OF SUPERVISORS OF ANY COUNTY WITH A POPULATION OF MORE THAN TWO MILLION  
38 PERSONS SHALL DESIGNATE AND ESTABLISH THE BOUNDARIES OF AN AGGREGATE MINING  
39 OPERATIONS ZONING DISTRICT ON THE PETITION OF AT LEAST ONE HUNDRED PERSONS  
40 WHO RESIDE WITHIN ONE-HALF MILE OF AN EXISTING AGGREGATE MINING OPERATION. IN  
41 ADDITION, THE BOARD OF SUPERVISORS OF ANY COUNTY MAY ESTABLISH, IN ITS  
42 DISCRETION AND ON THE BOARD'S INITIATIVE, ONE OR MORE AGGREGATE MINING  
43 OPERATIONS ZONING DISTRICTS. AGGREGATE MINING OPERATIONS ZONING DISTRICTS MAY  
44 ONLY BE LOCATED IN AREAS THAT ARE INVENTORIED AND MAPPED AS AREAS OF KNOWN  
45 RESERVES OR IN AREAS WITH EXISTING AGGREGATE MINING OPERATIONS. Subject to

1 subsection ~~D~~ SUBSECTIONS E AND F of this section, a county AND THE STATE MINE  
 2 INSPECTOR may JOINTLY adopt, as internal administrative regulations, sand and  
 3 gravel REASONABLE AGGREGATE MINING operations zoning district standards  
 4 limited to permitted uses, procedures for approval of property development  
 5 plans and site development standards for dust control, height regulations,  
 6 setbacks, days and hours of operation, off-street parking, screening, noise,  
 7 vibration and air pollution control, signs, roadway access lanes, arterial  
 8 highway protection and property reclamation FOR WHICH AGGREGATE MINING  
 9 OPERATIONS ARE NOT OTHERWISE SUBJECT TO FEDERAL, STATE OR LOCAL REGULATION  
 10 OR A GOVERNMENTAL CONTRACTUAL OBLIGATION. Regulations JOINTLY adopted  
 11 pursuant to this subsection BY THE COUNTY AND THE STATE MINE INSPECTOR shall  
 12 not prohibit the activities included in the definition of mine pursuant to  
 13 section 27-301, paragraph 8 OR DUPLICATE, CONFLICT WITH OR BE MORE STRINGENT  
 14 THAN APPLICABLE FEDERAL, STATE OR LOCAL LAWS.

15 D. ~~if the board of supervisors elects to establish sand and gravel~~  
 16 ~~operations zoning districts and adopt regulations therefor, The board OF~~  
 17 SUPERVISORS OF ANY COUNTY THAT ESTABLISHES AN AGGREGATE MINING OPERATIONS  
 18 ZONING DISTRICT shall ~~create a sand and gravel~~ APPOINT AN AGGREGATE MINING  
 19 operations recommendation committee which FOR THE DISTRICT. THE COMMITTEE  
 20 shall consist of not more than seven operators, OR REPRESENTATIVES OF  
 21 OPERATORS, of active sand and gravel AGGREGATE MINING operations IN ANY  
 22 DISTRICT within the county and an equal number of property owners, who are  
 23 not operators, WHO ARE NOT EMPLOYED BY OPERATORS AND WHO DO NOT REPRESENT  
 24 OPERATORS, residing within one mile of the boundaries of a sand and gravel  
 25 AGGREGATE MINING operations district or a proposed sand and gravel operations  
 26 AGGREGATE MINING OPERATION IN THE district FOR WHICH THE COMMITTEE IS  
 27 ESTABLISHED. AN AGGREGATE MINING OPERATOR MAY SERVE ON MORE THAN ONE  
 28 COMMITTEE IN THE SAME COUNTY. The board of supervisors shall determine the  
 29 length of terms of members of the committee and shall stagger the initial  
 30 appointments so that not all members' terms expire at the same time. MEMBERS  
 31 OF THE COMMITTEE WHO NO LONGER QUALIFY FOR MEMBERSHIP AS PROVIDED BY THIS  
 32 SUBSECTION ARE SUBJECT TO REMOVAL AND REPLACEMENT BY THE BOARD OF  
 33 SUPERVISORS. The committee shall elect a member who is a sand and gravel AN  
 34 AGGREGATE MINING operator to serve as chairman for the first year in which  
 35 the committee is created. For each year thereafter, the chairman shall be  
 36 elected by the members of the committee with a member who is a property owner  
 37 and a member who is a sand and gravel AN AGGREGATE MINING operator serving  
 38 as chairman in alternate years. THE COMMITTEE IS SUBJECT TO THE OPEN MEETING  
 39 REQUIREMENTS OF TITLE 38, CHAPTER 3, ARTICLE 3.1.

40 E. WITHIN NINETY DAYS AFTER AN AGGREGATE MINING OPERATIONS  
 41 RECOMMENDATION COMMITTEE IS ESTABLISHED, IT SHALL NOTIFY ALL EXISTING  
 42 AGGREGATE MINING OPERATORS IN THE DISTRICT OF THE APPLICATION OF THIS SECTION  
 43 AND TITLE 27, CHAPTER 3, ARTICLE 6 TO THE AGGREGATE MINING OPERATION. IN  
 44 ADDITION, the committee shall meet and:

1        1. By a majority vote of all members make recommendations to the board  
2 of supervisors for ~~sand and gravel~~ AGGREGATE MINING zoning districts and  
3 administrative regulations as provided in this section. The board of  
4 supervisors may adopt or reject such recommendations but may not make any  
5 modifications to the recommendations unless such modification is approved by  
6 a majority of the members of the recommendation committee.

7        2. SERVE AS A FORUM FOR MEDIATION OF DISPUTES BETWEEN MEMBERS OF THE  
8 PUBLIC AND AGGREGATE MINING OWNERS OR OPERATORS. IF THE COMMITTEE IS UNABLE  
9 TO RESOLVE A DISPUTE, THE COMMITTEE SHALL TRANSMIT THE MATTER TO THE STATE  
10 MINE INSPECTOR, WITH WRITTEN FINDINGS AND RECOMMENDATIONS, FOR FURTHER  
11 ACTION.

12        3. HEAR WRITTEN COMPLAINTS FILED WITH THE STATE MINE INSPECTOR  
13 REGARDING ALLEGED MATERIAL DEVIATIONS FROM APPROVED COMMUNITY NOTICES FOR  
14 AGGREGATE MINING OPERATIONS AND MAKE WRITTEN RECOMMENDATIONS TO THE STATE  
15 MINE INSPECTOR PURSUANT TO SECTION 27-446.

16        F. ANY ADMINISTRATIVE REGULATIONS ADOPTED BY A BOARD OF SUPERVISORS  
17 PURSUANT TO THIS SECTION SHALL NOT BE EFFECTIVE UNTIL THEY ARE APPROVED BY  
18 THE STATE MINE INSPECTOR. THE INSPECTOR MAY DISAPPROVE THE ADMINISTRATIVE  
19 REGULATIONS ADOPTED BY THE BOARD OF SUPERVISORS ONLY IF THEY DUPLICATE,  
20 CONFLICT WITH OR ARE MORE STRINGENT THAN APPLICABLE FEDERAL, STATE OR LOCAL  
21 LAWS, RULES OR REGULATIONS. IF THE INSPECTOR DISAPPROVES THE ADMINISTRATIVE  
22 REGULATIONS, THE INSPECTOR MUST PROVIDE WRITTEN REASONS FOR THE DISAPPROVAL.  
23 THE INSPECTOR SHALL NOT MAKE ANY MODIFICATION TO THE ADMINISTRATIVE  
24 REGULATIONS AS ADOPTED BY THE BOARD OF SUPERVISORS UNLESS THE MODIFICATION  
25 IS APPROVED BY A MAJORITY OF THE MEMBERS OF THE BOARD OF SUPERVISORS.

26        ~~E.~~ G. A person or entity is subject to the provisions of this chapter  
27 if the use or occupation of land or improvements by the person or entity  
28 consists of or includes changing, remanufacturing or treating human sewage  
29 or sludge for distribution or resale. These activities are not exempt from  
30 this chapter under subsection A, paragraph 2 of this section.

31        ~~F.~~ H. A county shall not require as a condition for a permit or for  
32 any approval, or otherwise cause, an owner or possessor of property to waive  
33 the right to continue an existing nonconforming outdoor advertising use or  
34 structure without acquiring the use or structure by purchase or condemnation  
35 and paying just compensation unless the county, at its option, allows the use  
36 or structure to be relocated to a comparable site in the county with the same  
37 or a similar zoning classification, or to another site in the county  
38 acceptable to both the county and the owner of the use or structure, and the  
39 use or structure is relocated to the other site. The county shall pay for  
40 relocating the outdoor advertising use or structure including the cost of  
41 removing and constructing the new use or structure that is at least the same  
42 size and height. This subsection does not apply to county rezoning of  
43 property at the request of the property owner to a more intensive zoning  
44 district.

45        ~~G.~~ I. For purposes of this section:

1           1. "AGGREGATE" HAS THE SAME MEANING PRESCRIBED IN SECTION 27-441.

2           2. "AGGREGATE MINING" HAS THE SAME MEANING PRESCRIBED IN SECTION  
3 27-441.

4           3. "AGGREGATE MINING OPERATION" MEANS PROPERTY THAT IS OWNED, OPERATED  
5 OR MANAGED BY THE SAME PERSON FOR AGGREGATE MINING.

6           4. "Operators" means persons who are actively engaged in sand and  
7 gravel AGGREGATE MINING operations within the zoning district or proposed  
8 zoning district and who have given notice to the state mine inspector  
9 pursuant to section 27-303.

10           Sec. 2. Heading change

11           The heading of title 27, chapter 3, article 6, Arizona Revised  
12 Statutes, is changed from "SAND AND GRAVEL OPERATIONS" to "AGGREGATE MINING  
13 OPERATIONS".

14           Sec. 3. Renumber

15           Section 27-441, Arizona Revised Statutes, is renumbered as section  
16 27-448.

17           Sec. 4. Title 27, chapter 3, article 6, Arizona Revised Statutes, is  
18 amended by adding a new section 27-441 and sections 27-442 through 27-447,  
19 to read:

20           27-441. Definitions

21           IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

22           1. "AGGREGATE" MEANS CINDERS, CRUSHED ROCK OR STONE, DECOMPOSED  
23 GRANITE, GRAVEL, PUMICE, PUMICITE AND SAND.

24           2. "AGGREGATE MINING" MEANS CLEARING, COVERING OR MOVING LAND USING  
25 MECHANIZED EARTH-MOVING EQUIPMENT ON PRIVATELY OWNED PROPERTY FOR AGGREGATE  
26 DEVELOPMENT AND PRODUCTION PURPOSES, INCLUDING ANCILLARY AGGREGATE FINISHED  
27 PRODUCT ACTIVITIES. AGGREGATE MINING INCLUDES AN OPERATION THAT MIXES OR  
28 RECYCLES ROCK, SAND, GRAVEL OR SIMILAR AGGREGATE MATERIALS WITH WATER AND  
29 CEMENT OR WITH ASPHALT. AGGREGATE MINING DOES NOT INCLUDE SURVEYING, SEISMIC  
30 WORK, EXPLORATION OR MAINTENANCE ACTIVITIES THAT CREATE A DE MINIMIS LAND  
31 DISTURBANCE.

32           3. "AGGREGATE MINING OPERATION" OR "OPERATION" MEANS PROPERTY THAT IS  
33 OWNED, OPERATED OR MANAGED BY THE SAME PERSON FOR MINING AGGREGATE AND IS  
34 LOCATED IN AN AGGREGATE MINING OPERATIONS ZONING DISTRICT ESTABLISHED  
35 PURSUANT TO SECTION 11-830. PROPERTY THAT IS NOT CONTIGUOUS BUT IS IN THE  
36 SAME ZONING DISTRICT, THAT IS OWNED, OPERATED OR MANAGED BY THE SAME PERSON  
37 AND THAT IS OPERATED AS A SINGLE AGGREGATE MINING COMPLEX IS CONSIDERED TO  
38 BE A SINGLE AGGREGATE MINING OPERATION.

39           4. "EXISTING AGGREGATE MINING OPERATION" MEANS AN AGGREGATE MINING  
40 OPERATION THAT WAS IN OPERATION ON OR BEFORE THE DATE THE AGGREGATE MINING  
41 OPERATIONS ZONING DISTRICT IS ESTABLISHED PURSUANT TO SECTION 11-830.

42           5. "MAJOR MODIFICATION" MEANS A CHANGE IN AN APPROVED COMMUNITY NOTICE  
43 THAT IS ONE OR MORE OF THE FOLLOWING:

44           (a) AN INCREASE OF MORE THAN TWENTY ACRES FROM THAT STATED IN THE  
45 CURRENTLY APPROVED COMMUNITY NOTICE FOR THE AGGREGATE MINING OPERATION.

1 (b) A NEW AND SIGNIFICANT TYPE OF AGGREGATE MINING THAT HAS NEVER BEEN  
2 CONDUCTED AT THE AGGREGATE MINING OPERATION SITE.

3 (c) SUBSTANTIVE CHANGES TO THE PROVISIONS OF AN APPROVED COMMUNITY  
4 NOTICE REQUIRED BY SECTION 27-442, SUBSECTION C, PARAGRAPHS 4, 6, 8, 9 AND  
5 10.

6 6. "MINOR MODIFICATION" MEANS A CHANGE IN A COMMUNITY NOTICE THAT IS  
7 NOT A MAJOR MODIFICATION.

8 7. "NEW AGGREGATE MINING OPERATION" MEANS AN AGGREGATE MINING  
9 OPERATION THAT BEGINS OPERATIONS AFTER THE DATE THE AGGREGATE MINING  
10 OPERATIONS ZONING DISTRICT IS ESTABLISHED PURSUANT TO SECTION 11-830.

11 27-442. Aggregate mining operations; community notice;  
12 application

13 A. AN OWNER OR OPERATOR OF AN AGGREGATE MINING OPERATION SHALL NOT  
14 CONDUCT ANY AGGREGATE MINING UNTIL IT HAS AN APPROVED COMMUNITY NOTICE  
15 PURSUANT TO SECTION 27-445, EXCEPT THAT AN OWNER OR OPERATOR OF AN EXISTING  
16 AGGREGATE MINING OPERATION MAY CONTINUE THE OPERATION IF A COMMUNITY NOTICE  
17 IS FILED AS PROVIDED BY SUBSECTION H OF THIS SECTION.

18 B. AN OWNER OR OPERATOR OF AN AGGREGATE MINING OPERATION SHALL NOT  
19 UNDERTAKE A MAJOR MODIFICATION OF AN APPROVED COMMUNITY NOTICE UNTIL A MAJOR  
20 MODIFICATION APPLICATION IS APPROVED BY THE STATE MINE INSPECTOR PURSUANT TO  
21 SECTION 27-445.

22 C. THE OWNER OR OPERATOR OF A NEW AGGREGATE MINING OPERATION SHALL  
23 FILE AN APPLICATION FOR A COMMUNITY NOTICE WITH THE INSPECTOR CONTAINING:

24 1. THE NAME AND MAILING ADDRESS OF THE AGGREGATE MINING OPERATION.

25 2. THE NAME AND MAILING ADDRESS OF THE OWNER OR OPERATOR OF THE  
26 OPERATION.

27 3. THE NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF THE DESIGNATED  
28 COMMUNITY REPRESENTATIVE OR REPRESENTATIVES FOR THE OPERATION.

29 4. A STATEMENT DESCRIBING THE MINING ACTIVITIES TO BE CONDUCTED AT THE  
30 OPERATION.

31 5. THE AMOUNT OF ACREAGE OF THE OPERATION AND A MAP SHOWING THE  
32 LOCATION OF THE MAJOR PROCESS FACILITIES.

33 6. EACH TYPE OF MAJOR EQUIPMENT TO BE USED IN THE OPERATION.

34 7. THE APPROXIMATE DATE WHEN THE OPERATION WILL START.

35 8. A DESCRIPTION AND LOCATION OF ACCESS ROUTES TO BE USED TO AND FROM  
36 THE OPERATION SITE DURING NORMAL HOURS AND NONEMERGENCY CONDITIONS.

37 9. THE NORMAL OPERATING HOURS OF THE OPERATION TO BE MAINTAINED DURING  
38 NONEMERGENCY CONDITIONS, UNLESS THE INSPECTOR AUTHORIZES A TEMPORARY VARIANCE  
39 FROM NORMAL OPERATING HOURS.

40 10. A DESCRIPTION OF MEASURES THE OWNER OR OPERATOR WILL USE TO  
41 MODERATE, TO THE EXTENT ECONOMICALLY PRACTICABLE AT THE SITE, ANY ADVERSE  
42 PHYSICAL EFFECTS ON THE RESIDENTIAL PROPERTY OWNERS WHO ARE NOTIFIED PURSUANT  
43 TO SECTION 27-444.

44 D. AN OWNER OR OPERATOR WHO OWNS OR LEASES THE LAND OF THE OPERATION  
45 MAY SUBMIT A JOINT APPLICATION FOR A COMMUNITY NOTICE WITH ONE OR MORE

1 LESSEES OR SUBLESSEES WHO ARE ALSO OPERATING AN AGGREGATE MINING OPERATION  
2 ON THE SAME PROPERTY. A JOINT APPLICATION FOR A COMMUNITY NOTICE MUST  
3 SEPARATELY LIST THE INFORMATION REQUIRED PURSUANT TO SUBSECTION C OF THIS  
4 SECTION BY EACH OWNER OR OPERATOR OF AN AGGREGATE MINING OPERATION. OWNERS  
5 OR OPERATORS OF AGGREGATE MINING OPERATIONS WHO RECEIVED APPROVAL FOR A JOINT  
6 APPLICATION FOR A COMMUNITY NOTICE MAY ALSO FILE A JOINT APPLICATION ON THAT  
7 APPROVED COMMUNITY NOTICE FOR MAJOR AND MINOR MODIFICATIONS.

8 E. THE OWNER OR OPERATOR MAY PROPOSE A MAJOR OR MINOR MODIFICATION BY  
9 FILING AN APPLICATION WITH THE INSPECTOR CONTAINING THE TEXT OF THE COMMUNITY  
10 NOTICE WITH THE PROPOSED CHANGES NOTED IN THE TEXT.

11 F. WITHIN FOURTEEN DAYS AFTER RECEIVING AN APPLICATION FOR A COMMUNITY  
12 NOTICE FOR A NEW AGGREGATE MINING OPERATION OR MAJOR MODIFICATION, THE  
13 INSPECTOR SHALL NOTIFY THE APPLICANT IF THE COMMUNITY NOTICE APPLICATION  
14 CONTAINS THE INFORMATION REQUIRED BY SUBSECTION C OF THIS SECTION OR IF THE  
15 MAJOR MODIFICATION APPLICATION IS COMPLETE PURSUANT TO SUBSECTION E OF THIS  
16 SECTION. IF THE INSPECTOR FAILS TO NOTIFY THE APPLICANT WITHIN FOURTEEN  
17 DAYS, THE APPLICATION IS CONSIDERED TO BE COMPLETE.

18 G. THE OWNER OR OPERATOR MUST FILE AN APPLICATION FOR A MINOR  
19 MODIFICATION TO AN APPROVED COMMUNITY NOTICE WITH THE STATE MINE INSPECTOR.  
20 MINOR MODIFICATIONS TAKE EFFECT ON FILING, UNLESS A LATER EFFECTIVE DATE IS  
21 DESIGNATED IN THE APPLICATION. APPLICATIONS FOR MINOR MODIFICATIONS ARE NOT  
22 SUBJECT TO SECTIONS 27-443, 27-444 AND 27-445.

23 H. FOR PURPOSES OF HAVING AN APPROVED COMMUNITY NOTICE, WITHIN NINETY  
24 DAYS AFTER AN AGGREGATE MINING OPERATIONS ZONING DISTRICT IS ESTABLISHED  
25 PURSUANT TO SECTION 11-830, THE OWNER OR OPERATOR OF AN EXISTING AGGREGATE  
26 MINING OPERATION MUST FILE WITH THE STATE MINE INSPECTOR A COMMUNITY NOTICE,  
27 WHICH IS NOT SUBJECT TO SECTIONS 27-443 AND 27-444. THE COMMUNITY NOTICE  
28 SHALL CONTAIN ALL THE INFORMATION REQUIRED BY SUBSECTION C OF THIS SECTION,  
29 EXCEPT PARAGRAPH 7, FOR ITS AGGREGATE MINING OPERATION. OWNERS OR OPERATORS  
30 OF EXISTING AGGREGATE MINING OPERATIONS MAY SUBMIT A JOINT APPLICATION FOR  
31 A COMMUNITY NOTICE PURSUANT TO SUBSECTION D OF THIS SECTION.

32 27-443. Application fee; aggregate community notice fund

33 A. THE INSPECTOR SHALL ADOPT BY RULE AN APPLICATION FEE FOR A  
34 COMMUNITY NOTICE FOR A NEW AGGREGATE MINING OPERATION AND FOR A MAJOR  
35 MODIFICATION OF AN APPROVED COMMUNITY NOTICE. THE STATE MINE INSPECTOR SHALL  
36 COLLECT AN APPLICATION FEE ESTABLISHED BY RULE FROM EACH OWNER OR OPERATOR  
37 WHO APPLIES PURSUANT TO SECTION 27-442 FOR A COMMUNITY NOTICE FOR A NEW  
38 AGGREGATE MINING OPERATION OR FOR A MAJOR MODIFICATION OF AN APPROVED  
39 COMMUNITY NOTICE. THE INSPECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146  
40 AND 35-147, THE MONIES COLLECTED FROM APPLICANTS IN THE AGGREGATE COMMUNITY  
41 NOTICE FUND.

42 B. THE AGGREGATE COMMUNITY NOTICE FUND IS ESTABLISHED. THE STATE MINE  
43 INSPECTOR SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY  
44 APPROPRIATED TO THE STATE MINE INSPECTOR FOR THE PURPOSE OF PROCESSING  
45 COMMUNITY NOTICE APPLICATIONS AND TO CONDUCT PUBLIC MEETINGS PURSUANT TO THIS

1 ARTICLE. ON NOTICE FROM THE INSPECTOR, THE STATE TREASURER SHALL INVEST AND  
2 DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED  
3 FROM INVESTMENT SHALL BE CREDITED TO THE FUND. MONIES IN THE FUND ARE EXEMPT  
4 FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

5 27-444. Community notice; public meeting

6 A. WITHIN TWENTY-ONE DAYS AFTER THE STATE MINE INSPECTOR NOTIFIES AN  
7 OWNER OR OPERATOR OF AN AGGREGATE MINING OPERATION THAT THE APPLICATION FOR  
8 A COMMUNITY NOTICE FOR A NEW AGGREGATE MINING OPERATION OR A MAJOR  
9 MODIFICATION FOR AN APPROVED COMMUNITY NOTICE IS COMPLETE, OR WITHIN TWENTY-  
10 ONE DAYS AFTER THE APPLICATION IS CONSIDERED TO BE COMPLETE, THE OWNER OR  
11 OPERATOR SHALL SEND BY CERTIFIED MAIL A COPY OF THE COMMUNITY NOTICE:

12 1. TO EACH RESIDENTIAL PROPERTY OWNER, AS SHOWN ON THE CURRENT  
13 PROPERTY TAX ROLL, WITHIN A ONE-HALF MILE RADIUS OF THE AGGREGATE MINING  
14 OPERATION. THE OWNER OR OPERATOR SHALL SUBMIT THE LIST OF NOTIFIED  
15 RESIDENTIAL PROPERTY OWNERS TO THE INSPECTOR. THE COMMUNITY NOTICE SHALL  
16 INCLUDE A STATEMENT THAT THE PROPERTY OWNER MAY REQUEST THE STATE MINE  
17 INSPECTOR TO HOLD A PUBLIC MEETING AND MAY SUBMIT WRITTEN COMMENTS AS  
18 PROVIDED BY THIS SECTION.

19 2. TO THE AGGREGATE MINING OPERATIONS RECOMMENDATION COMMITTEE FOR THE  
20 DISTRICT IN WHICH THE OPERATION IS LOCATED.

21 3. IF THE OPERATION IS LOCATED IN A COUNTY IN WHICH A MULTI-COUNTY  
22 WATER CONSERVATION DISTRICT IS ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 22,  
23 TO THE MULTI-COUNTY WATER CONSERVATION DISTRICT.

24 B. IF THERE IS SUFFICIENT PUBLIC INTEREST, THE INSPECTOR SHALL  
25 SCHEDULE AND CONDUCT A PUBLIC MEETING WITHIN FORTY-FIVE DAYS AFTER THE  
26 COMMUNITY NOTICE FOR A NEW AGGREGATE MINING OPERATION OR MAJOR MODIFICATION  
27 IS FILED WITH THE INSPECTOR. THE INSPECTOR SHALL GIVE AT LEAST FIFTEEN DAYS'  
28 NOTICE OF THE MEETING BY FILING THE NOTICE IN THE OFFICE OF THE SECRETARY OF  
29 STATE AND BY MAIL TO THE RESIDENTIAL PROPERTY OWNERS WHO REQUESTED THE PUBLIC  
30 MEETING PURSUANT TO SUBSECTION A, PARAGRAPH 1.

31 C. THE INSPECTOR OR AN EMPLOYEE OF THE INSPECTOR SHALL CONDUCT ANY  
32 PUBLIC MEETING ON A COMMUNITY NOTICE. THE AGGREGATE MINING OPERATION'S  
33 DESIGNATED REPRESENTATIVE SHALL ATTEND AND RESPOND TO QUESTIONS RELATING TO  
34 INFORMATION IN THE COMMUNITY NOTICE. IF A NOTIFIED RESIDENTIAL PROPERTY  
35 OWNER CANNOT ATTEND THE PUBLIC MEETING, THE OWNER MAY SUBMIT WRITTEN COMMENTS  
36 TO THE INSPECTOR BEFORE THE MEETING REGARDING THE COMMUNITY NOTICE. THE  
37 INSPECTOR OR THE INSPECTOR'S EMPLOYEE AND THE AGGREGATE MINING OPERATOR'S  
38 DESIGNATED REPRESENTATIVE SHALL RECEIVE AND CONSIDER COMMENTS FROM PERSONS  
39 ATTENDING THE MEETING AND THE WRITTEN COMMENTS SUBMITTED BEFORE THE MEETING.

40 27-445. Approval of community notice or major modification

41 A. THE STATE MINE INSPECTOR SHALL APPROVE OR DISAPPROVE A COMMUNITY  
42 NOTICE FOR A NEW AGGREGATE MINING OPERATION OR MAJOR MODIFICATION WITHIN  
43 SIXTY DAYS AFTER THE NOTICE IS FILED BY THE OWNER OR OPERATOR OF THE  
44 AGGREGATE MINING OPERATION.



1       B. THE INSPECTOR SHALL APPROVE THE COMMUNITY NOTICE FOR A NEW  
2 AGGREGATE MINING OPERATION OR A MAJOR MODIFICATION IF:

3       1. THE NOTICE FILED WITH THE INSPECTOR CONTAINS THE INFORMATION  
4 REQUIRED BY SECTION 27-442, SUBSECTION C OR THE MAJOR MODIFICATION FILED WITH  
5 THE INSPECTOR IS COMPLETE PURSUANT TO SECTION 27-442, SUBSECTION E.

6       2. THE FEE PRESCRIBED IN SECTION 27-443 IS PAID.

7       3. THE COMMUNITY NOTICE OR MAJOR MODIFICATION FILED WITH THE INSPECTOR  
8 IS MAILED TO PROPERTY OWNERS AS REQUIRED BY SECTION 27-444, SUBSECTION A.

9       4. THE DESIGNATED COMMUNITY REPRESENTATIVE ATTENDS AND RESPONDS TO  
10 QUESTIONS IF A PUBLIC MEETING IS HELD PURSUANT TO SECTION 27-444, SUBSECTIONS  
11 B AND C.

12       C. IF THE INSPECTOR DISAPPROVES A COMMUNITY NOTICE OR MAJOR  
13 MODIFICATION, THE INSPECTOR MUST INCLUDE WITH THE DISAPPROVAL A WRITTEN  
14 EXPLANATION STATING THE REASONS FOR DENIAL, INCLUDING RECOMMENDATIONS FOR  
15 CORRECTING THE UNACCEPTABLE PARTS OF THE COMMUNITY NOTICE OR MAJOR  
16 MODIFICATION.

17       D. COMMUNITY NOTICES FOR EXISTING AGGREGATE MINING OPERATIONS FILED  
18 PURSUANT TO SECTION 27-442, SUBSECTION H ARE CONSIDERED TO BE APPROVED ON  
19 SUBMISSION TO THE INSPECTOR.

20       E. THE OWNER OR OPERATOR OF ANY AGGREGATE MINING OPERATION SHALL  
21 OPERATE ACCORDING TO AN APPROVED ORIGINAL OR MODIFIED COMMUNITY NOTICE.

22       27-446. Claims of deviation from an approved community notice

23       A. AFTER A COMMUNITY NOTICE IS APPROVED BY THE STATE MINE INSPECTOR,  
24 A RESIDENTIAL PROPERTY OWNER WHO RESIDES WITHIN ONE-HALF MILE OF THE  
25 BOUNDARIES OF THE AGGREGATE MINING OPERATION MAY SUBMIT A WRITTEN COMPLAINT  
26 TO THE DESIGNATED COMMUNITY REPRESENTATIVE THAT THE OPERATION HAS MATERIALLY  
27 DEVIATED FROM THE APPROVED COMMUNITY NOTICE, SPECIFYING THE COMMUNITY NOTICE  
28 PROVISION THAT IS IN QUESTION AND THE NATURE OF THE MATERIAL DEVIATION.

29       B. IF THE AGGREGATE MINING OPERATION DOES NOT ADDRESS THE COMPLAINT  
30 TO THE SATISFACTION OF THE RESIDENTIAL PROPERTY OWNER WITHIN THIRTY DAYS  
31 AFTER RECEIVING THE COMPLAINT, THE NOTIFIED RESIDENTIAL PROPERTY OWNER MAY  
32 FILE THE SAME COMPLAINT WITH THE INSPECTOR WITH A STATEMENT THAT THE  
33 AGGREGATE MINING OPERATION HAS NOT ADDRESSED THE COMPLAINT TO THE PROPERTY  
34 OWNER'S SATISFACTION.

35       C. IN COUNTIES THAT HAVE ESTABLISHED AN AGGREGATE MINING OPERATIONS  
36 RECOMMENDATION COMMITTEE PURSUANT TO SECTION 11-830, THE INSPECTOR SHALL  
37 REQUEST THE COMMITTEE TO HEAR THE COMPLAINT. THE COMMITTEE SHALL ADVISE THE  
38 INSPECTOR WITHIN THIRTY DAYS IN WRITING OF ITS FINDINGS AND RECOMMENDATIONS  
39 REGARDING THE COMPLAINT. THE INSPECTOR SHALL RENDER A DECISION ON THE  
40 COMPLAINT WITHIN THIRTY DAYS AFTER RECEIVING THE COMMITTEE'S RECOMMENDATION.  
41 THE INSPECTOR SHALL NOTIFY, IN WRITING, THE OWNER OR OPERATOR OF THE  
42 AGGREGATE MINING OPERATION, THE COMPLAINANT AND THE COMMITTEE OF THE  
43 DECISION.

1           27-447. Inspection and enforcement

2           A. THE STATE MINE INSPECTOR MAY ENTER AND INSPECT ANY AGGREGATE MINING  
3 OPERATION TO DETERMINE COMPLIANCE WITH AN APPROVED COMMUNITY NOTICE.

4           B. IF THE INSPECTOR DETERMINES THAT A PERSON IS VIOLATING THIS  
5 ARTICLE, AN APPROVED COMMUNITY NOTICE OR AGGREGATE MINING OPERATIONS ZONING  
6 DISTRICT STANDARDS REGULATION ADOPTED BY A COUNTY AND APPROVED BY THE STATE  
7 MINING INSPECTOR PURSUANT TO SECTION 11-830, THE INSPECTOR MAY ISSUE AN ORDER  
8 REQUIRING COMPLIANCE EITHER IMMEDIATELY IF THE VIOLATION IS CAUSING AN  
9 IMMINENT AND SUBSTANTIAL DANGER TO THE PUBLIC OR WITHIN A STATED PERIOD OF  
10 TIME. A COMPLIANCE ORDER MUST STATE WITH REASONABLE SPECIFICITY THE NATURE  
11 OF THE COMMUNITY NOTICE VIOLATION, A REASONABLE AMOUNT OF TIME FOR  
12 COMPLIANCE, IF APPLICABLE, AND THE RIGHT TO A HEARING. THE INSPECTOR SHALL  
13 TRANSMIT THE COMPLIANCE ORDER TO THE ALLEGED VIOLATOR EITHER BY CERTIFIED  
14 MAIL, RETURN RECEIPT REQUESTED, OR BY HAND DELIVERY. AT THE INSPECTOR'S  
15 REQUEST, THE ATTORNEY GENERAL MAY FILE AN ACTION TO ENFORCE ORDERS ISSUED  
16 UNDER THIS SECTION AFTER THE ORDER BECOMES FINAL. THE ACTION MUST BE FILED  
17 IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE ALLEGED VIOLATION OCCURRED  
18 OR IN WHICH THE INSPECTOR MAINTAINS AN OFFICE.

19           C. THE INSPECTOR MAY SUSPEND, WITHDRAW OR REVOKE A COMMUNITY NOTICE  
20 APPROVAL IF THE INSPECTOR DETERMINES THAT THE AGGREGATE MINING OPERATION IS  
21 IN VIOLATION OF AN APPROVED COMMUNITY NOTICE. ANY ACTION TAKEN UNDER THIS  
22 SUBSECTION MUST COMPLY WITH THE REQUIREMENTS OF TITLE 41, CHAPTER 6, ARTICLE  
23 10 AND SECTION 41-1009, SUBSECTION E.

24           D. IF THE INSPECTOR HAS REASON TO BELIEVE THAT A PERSON IS VIOLATING  
25 THIS ARTICLE OR AN APPROVED COMMUNITY NOTICE OR AGGREGATE MINING OPERATIONS  
26 ZONING DISTRICT STANDARDS REGULATION ADOPTED BY A COUNTY AND APPROVED BY THE  
27 INSPECTOR PURSUANT TO SECTION 11-830 OR THAT A PERSON IS CAUSING AN IMMINENT  
28 AND SUBSTANTIAL DANGER TO THE PUBLIC SAFETY, THE INSPECTOR, THROUGH THE  
29 ATTORNEY GENERAL, MAY REQUEST A TEMPORARY RESTRAINING ORDER, A PRELIMINARY  
30 INJUNCTION OR ANY OTHER RELIEF NECESSARY TO PROTECT THE PUBLIC SAFETY WITHOUT  
31 REGARD TO WHETHER THE PERSON HAS REQUESTED A HEARING. AN ACTION FILED  
32 PURSUANT TO THIS SUBSECTION MUST BE BROUGHT IN THE SUPERIOR COURT IN THE  
33 COUNTY IN WHICH THE ALLEGED VIOLATION OCCURRED OR IN WHICH THE INSPECTOR  
34 MAINTAINS AN OFFICE.

35           Sec. 5. Section 48-3609.01, Arizona Revised Statutes, is amended to  
36 read:

37           48-3609.01. Watercourse master plans; definition

38           A. If a district organized pursuant to this chapter has completed a  
39 watercourse master plan which includes one or more watercourses, and if the  
40 plan has been adopted by the board or by any other jurisdiction in that river  
41 or drainage system, then the board and the governing body of each  
42 jurisdiction may adopt and shall enforce uniform rules for that river or  
43 drainage system within the jurisdiction using criteria that meet or exceed  
44 criteria adopted by the director of water resources pursuant to section  
45 48-3605, subsection A.

1 B. During the preparation of a watercourse master plan, record owners  
2 of real property in and immediately contiguous to the watercourse or  
3 watercourses included in the planning shall be publicly notified by the board  
4 or its agents so that the owners may have input to the planning process. In  
5 addition, ~~sand and gravel~~ AGGREGATE MINING OPERATIONS recommendation  
6 committees organized pursuant to section 11-830, subsection D, if any, shall  
7 be notified.

8 C. All watercourse master plans shall consider recharge techniques  
9 including gabions, swales, dry wells, sand tanks and small dams.

10 D. This section does not apply to any city or town which has adopted  
11 a resolution assuming floodplain management and regulation within its area  
12 of jurisdiction as provided in section 48-3610 prior to July 1, 1990.

13 E. A "Watercourse master plan" means a hydraulic plan for a  
14 watercourse that examines the cumulative impacts of existing development and  
15 future encroachment in the floodplain and future development in the watershed  
16 on potential flood damages, and establishes technical criteria for subsequent  
17 development so as to minimize potential flood damages for all flood events  
18 up to and including the one hundred-year flood.

19 Sec. 6. Exemption from rule making

20 The state mine inspector is exempt from title 41, chapter 6, Arizona  
21 Revised Statutes, through June 30, 2003, with respect to the adoption of  
22 rules to establish application fees pursuant to this act, except that the  
23 inspector shall provide for reasonable public notice and comment on the  
24 rules. The state mine inspector shall file the final rules with the office  
25 of the secretary of state. The rules shall take effect immediately upon  
26 filing with the office of the secretary of state.

APPROVED BY THE GOVERNOR MAY 17, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 17, 2002.

Passed the House May 2, 2002,

by the following vote: 34 Ayes,

16 Nays, 10 Not Voting

[Signature]  
Speaker of the House

Norman L. Moore  
Chief Clerk of the House

Passed the Senate March 27, 2002,

by the following vote: 20 Ayes,

10 Nays, 0 Not Voting  
with Art IX, sec. 22

[Signature]  
President of the Senate

Channing Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

           day of           , 20  ,

at            o'clock            M.

            
Secretary to the Governor

Approved this            day of

          , 20  ,

at            o'clock            M.

            
Governor of Arizona

S.B. 1344

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this            day of           , 20  ,

at            o'clock            M.

            
Secretary of State

SENATE CONCURS IN HOUSE AMENDMENTS  
AND FINAL PASSAGE

Passed the Senate May 13, 20 02

by the following vote: 20 Ayes,

8 Nays, 2 Not Voting

Randall Ainsworth  
President of the Senate

Chas. W. B. Burt  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13 day of May, 20 02,

at 2:20 o'clock P M.

Sandra Ramirez  
Secretary to the Governor

Approved this 17 day of

May, 20 02,

at 8:43 o'clock A M.

Jan Kleezell  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 17 day of May, 20 02

at 3:32 o'clock P M.

Stephany Baker  
Secretary of State

S.B. 1344